

NOV 14 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUPLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

UNITED STATES OF AMERICA,

)

)

)

Case No. 7:03CR00109

)

v.

)

ORDER

)

ALPHONSO BUSTER GILBERT,

)

By: James C. Turk

)

Senior United States District Judge

Defendant.

)

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED**
as follows:

1. Gilbert's "Motion Pursuant to F.R.Civ.P. Rule 59(e)" (ECF No. 51) is DENIED
and is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to
28 U.S.C. § 2255;

2. The Clerk is DIRECTED to redocket the motion (ECF No. 51) as a § 2255
motion and assign a corresponding civil case number;

3. The § 2255 motion is hereby DENIED without prejudice as successive and
should be STRICKEN from the active docket of the court and the corresponding civil
case should likewise be closed and STRICKEN from the active docket of the court; and

4. A Certificate of Appealability is DENIED.

ENTERED: November *14th*, 2012

[Signature]

Hon. James C. Turk
Senior United States District Judge